

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:02-CR-265-BO

UNITED STATES OF AMERICA       )  
  )  
v.    )  
  )  
DAMIEN DEVAUGHN MCCULLERS    )


**ORDER**

This cause comes before the Court on a letter from defendant, Damien McCullers, regarding an order of forfeiture that he contends was entered in absentia and without his knowledge. [DE 39]. Defendant asks for the Court's assistance in resolving the issue, and further requests that the Court take into consideration his current status as an inmate in the Federal Bureau of Prisons and the hardship associated with it.

The government has responded to defendant's letter. [DE 41]. The Court agrees that the relief which defendant seeks regarding the order of forfeiture is that which would result from a successful motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Thus, the Court hereby NOTIFIES defendant of its intent to construe his letter as a motion pursuant to 28 U.S.C. § 2255. *Castro v. United States*, 540 U.S. 375, 377 (2003). The Court further WARNS defendant of the effects of filing a motion pursuant to § 2255, including the restrictions on filing second or successive § 2255 motions, and advises him as to the requirements of § 2255.

If defendant does not wish his letter to be construed as a motion pursuant to 28 U.S.C. § 2255, he must so notify the Court and withdraw or sufficiently amend his letter within forty-five (45) days of the date of entry of this order.

SO ORDERED, this 20 day of March, 2015.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE